

Mon Apr 30 09:52:07 EDT 2018
CMS.OEX@epamail.epa.gov
FW: RiD Remediation Project
To: "cms.oex@domino.epamail.epa.gov" <cms.oex@domino.epamail.epa.gov>

From: Hope, Brian
Sent: Monday, April 30, 2018 1:52:05 PM (UTC+00:00) Monrovia, Reykjavik
To: CMS.OEX
Subject: FW: RiD Remediation Project

From: Kimball III, David P. [mailto:DPK@gknet.com]
Sent: Thursday, April 26, 2018 5:26 PM
To: Pruitt, Scott <Pruitt.Scott@epa.gov>
Subject: RiD Remediation Project

Dear Administrator Pruitt:

As the Administrator of EPA and originator of EPA's Superfund Initiative, we earnestly seek in the attached letter your assistance in connection with an on-going public-private partnership initiated groundwater and hazardous air emission remediation project in metropolitan Phoenix, Arizona. The remediation project addresses one of the largest groundwater contamination sites in the country and achieves all of the objectives of EPA's Superfund Task Force. Arizona and EPA Region 9 to date have failed to provide timely assistance to fully implement the remediation project to control further groundwater contaminant migration and hazardous air emissions to the local low income, minority community. We respectfully request the opportunity to brief you at your earliest convenience on this truly remarkable remediation project.

Gallagher & Kennedy
2575 E. Camelback Road, Suite 110
Phoenix, Arizona 85016-1215
PH: (602) 968-7100 | www.gknet.com

David P. Kimball III Attorney at Law Gallagher & Kennedy P.A. 2575 E Camelback Rd Suite 110 Phoenix, AZ 85016-1215 (602) 968-7100

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David P. Kimball, III
Attorney
Direct: (602) 530-8221
Email: dpk@gknet.com

April 26, 2018

VIA E-MAIL AND U.S. MAIL

Mr. Scott Pruitt

Administrator

U.S. ENVIRONMENTAL PROTECTION AGENCY

William Jefferson Clinton Building

1200 Pennsylvania Avenue, N.W.

Mail Code: 1101A

Washington, DC 20460

Re: **Roosevelt Irrigation District Remediation Project, Phoenix, Arizona**

Dear Administrator Pruitt:

We are requesting an audience with you at your earliest convenience to discuss a remarkable groundwater remediation project in metropolitan Phoenix, Arizona that will successfully implement the Agency's core mission consistent with the recommendations of the Superfund Task Force to expedite necessary remediation and better protect the health and welfare of our citizens and the environment.

We want to provide a short briefing on the on-going remedial actions that the Roosevelt Irrigation District (RID) voluntarily is pursuing to address a massive groundwater contaminant plume within Arizona's West Van Buren Area (WVBA) Water Quality Assurance Revolving Fund (WQARF) Registry Site in Phoenix, Arizona. The groundwater contaminant plume has seriously contaminated numerous RID water supply wells and is causing uncontrolled releases of hazardous volatile organic compounds (VOCs) into the air of the local low income, minority community. The massive VOC groundwater plume extends over 15 miles long and several miles wide and is the result of innumerable releases of hazardous VOCs over multiple decades from numerous and widespread industrial and governmental facilities located within the Arizona WVBA WQARF Site and the federal Motorola 52nd Street Superfund Site, making this the largest groundwater contaminant plume in Arizona and one of the largest in the United States.

RID has secured private funds through a public-private partnership structure to fully implement and operate the voluntary RID remedial actions that the Arizona Department of Environmental Quality (ADEQ) has approved and a federal court has determined to be NCP-compliant. The ADEQ-approved and NCP-compliant RID voluntary remedial actions will not only address the VOC groundwater contamination and hazardous air emissions within the

Arizona WVBA WQARF Site, but also the VOC-contaminated groundwater migrating from the adjacent, upgradient federal Motorola 52nd Street Superfund Site. Of course, such private funding is necessarily conditioned on government assurance that the governmental-approved remedial actions, as mandated at all Arizona WQARF and EPA CERCLA remediation sites, must continue until applicable water quality standards are achieved, which are the Arizona aquifer water quality standards (AWQSSs) and the federal maximum contaminant levels (MCLs) for the hazardous VOCs. Although RID currently operates the wells for irrigation purposes, the contaminated aquifer is classified for drinking water protected use, pursuant to Arizona law, and ADEQ has determined that this water supply will be needed to meet growing municipal demands, which are some of the fastest growing communities in the country.

To date, neither the State of Arizona (due to political influence of certain polluters) nor EPA Region 9 have provided the necessary assurance to enable full implementation and operation of the ADEQ-approved and NCP-compliant RID remedial actions using private funds to accelerate cleanup of the hazardous VOC-contaminated groundwater and air emissions. We have had multiple discussions with EPA Region 9 about providing the necessary assurance to expedite the remediation to address the groundwater contamination and hazardous air emissions. (See attached correspondence).

However, we believe this remediation project falls under your oversight and attention as EPA Administrator to help revitalize and expedite remediation of the VOC contamination that has and continues to migrate and be released from the adjacent, upgradient federal Superfund Site. This project meets the goals of the Superfund Task Force by:

- Expediting cleanup and remediation, especially compared to the adjacent and upgradient federal Superfund operable unit and the immediate environmental justice issues that are present;
- Reinvigorating responsible-party cleanup, especially if long-term operation and maintenance costs for wellhead treatment can be covered by private investment and/or municipal payment;
- Encouraging private investment, especially to expedite full implementation and continued operation of the wellhead treatment systems necessary to address further expansion of the groundwater contamination and the releases of hazardous air emissions to the local community above EPA guidance and recommended screening levels;
- Promoting redevelopment and community revitalization, especially by returning the contaminated water supply to its maximum beneficial use as a drinking water supply to enhance economic development; and
- Engaging partners and stakeholders, especially since the remediation has been pursued under a public-private partnership that has been approved by the State after significant community involvement and determined by a federal district court to be NCP-compliant.

GK

Mr. Scott Pruitt
April 26, 2018
Page 3

This is a truly unique remedial action that uses private funds to restore groundwater in the largest contaminated site in the State and protect the low income, minority community from further exposure to harmful VOCs as the site cleanup progresses, while creating economic development that can in turn pay for the ongoing cost of the groundwater cleanup. We would appreciate the opportunity to discuss the RID Remediation Project at your earliest convenience in hopes you will recognize and support expediting RID's actions as the type of transformative approach that is intended in your Superfund Initiative.

Very truly yours,

GALLAGHER & KENNEDY, P.A.

By: 
David P. Kimball, III

DPK/sgl
6576713/21982-0001

GK

E.P.A. Region 9

75 Hawthorne Street

San Francisco, CA 94105

415-972-3572

From: Kimball III, David P. [mailto:DPK@gknet.com]

Sent: Friday, January 26, 2018 11:24 AM

To: Strauss, Alexis <Strauss.Alexis@epa.gov>

Subject: Roosevelt Irrigation District (RID)

Alexis:

Happy New Year!

I wanted to follow up on our prior correspondence last year about addressing the groundwater contamination migrating from the federal Motorola 52nd Street Superfund Site and into the Arizona West Van Buren Area (WVBA) WQARF Site. I assume you are aware of ADEQ's declaration in its February 10, 2017 letter (attached) that "the State of Arizona will no longer accept delays at the West Van Buren Water Quality Assurance Revolving Fund Site." ADEQ set a deadline of December 31, 2017 for a consensus on a final regional groundwater remedy for the WVBA Site. Failure to meet that deadline would result in the State of Arizona seeking EPA administrative oversight under CERCLA of the WVBA WQARF Site as a geographic extension of the federal Motorola 52nd Street Superfund Site pursuant to applicable CERCLA policy and procedures. The WVBA WQARF Site PRPs failed to meet ADEQ's deadline.

Pursuant to ADEQ's expected deferral action to EPA, we would like to meet and provide an update on the ADEQ-approved remedial actions voluntarily taken to date within the WVBA Site by RID, our recent discussions with ADEQ, and our efforts to address some of the concerns raised in Mr. Manzanilla's April 4, 2017 letter to RID (attached). We would like to meet and discuss an alternative to what was discussed in my March 23, 2017 email to EPA (attached) that would expedite an effective remedial action at no potential cost to Arizona or EPA that has been determined by a federal judge to comply with the federal NCP and Arizona's remedial action criteria and applicable water quality standards. It also would be consistent with EPA's new Superfund program initiatives. Please let me know when we could schedule a meeting to discuss our proposal with appropriate EPA Region IX personnel at your earliest convenience.

Thank you,

Louis, Sonja G.

From: Kimball III, David P.
Sent: Friday, January 26, 2018 7:43 PM
To: Strauss, Alexis; manzanilla.enrique@epa.gov
Cc: Quast, Sylvia; Cabrera.misael@azdeq.gov
Subject: Re: Roosevelt Irrigation District (RID)

Alexis:

Thank you for the prompt response. I will anxiously await to hear back from Enrique. We have been delayed for over a year trying to work a solution with the PRPs through ADEQ. As a result, the contaminated RID wells were pumped during the 2017 irrigation season without the wellhead treatment systems operating due to lack of funding from the PRPs resulting in unnecessary exposure of the local low-income, minority community to releases of multiple toxic hazardous substances. We have arranged P3 funding to restart the treatment systems prior to the 2018 season in March and to fully implement the ADEQ- approved RID groundwater remedial action provided the P3 investment is secure under appropriate governmental approvals. We are anxious to discuss this option with EPA as time is of the essence.

Best regards,

Dave

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: "Strauss, Alexis" <Strauss.Alexis@epa.gov>
Date: 1/26/18 12:31 PM (GMT-07:00)
To: "Kimball III, David P." <DPK@gknet.com>, "Manzanilla, Enrique" <Manzanilla.Enrique@epa.gov>
Cc: "Quast, Sylvia" <Quast.Sylvia@epa.gov>, Cabrera.misael@azdeq.gov
Subject: Roosevelt Irrigation District (RID)

Dear Dave,

Thank you for your email. I'll ask Enrique to work with you on setting up a meeting at our mutual convenience. I remain hopeful the parties can resolve matters with ADEQ, as I believe that would be the most expeditious path to addressing a contamination issue. I hope this finds you well.

Kind regards,

Alexis

Alexis Strauss

Acting Regional Administrator

Louis, Sonja G.

From: Kimball III, David P.
Sent: Wednesday, May 17, 2017 11:00 AM
To: Manzanilla.Enrique@epa.gov
Cc: Strauss.Alexis@epa.gov; Loftin.Rachel@epa.gov; Dreyfus.Bethany@epamail.epa.gov; Kimball, Stuart S.
Subject: WVBA WQARF Site
Attachments: Important Developments for WVBA WQARF Site.pdf

Mr. Manzanilla:

As a followup to your April 4, 2017 letter to Mr. Donovan Neese of the Roosevelt Irrigation District and to keep EPA informed on the status of the remediation in the West Van Buren Area (WVBA) Water Quality Assurance Revolving Fund (WQARF) Site in Arizona, attached is a copy of the May 16, 2017 letter to the ADEQ Director.

Please contact me if you have any questions.

Dave Kimball

Gallagher & Kennedy

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2017-2018
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May 16, 2017

VIA ELECTRONIC MAIL

Misael Cabrena, PE
Director
Arizona Department of Environmental (ADEQ)
1110 W. Washington Street
Phoenix, Arizona 85007

Re: Important Developments for WVBA WQARF Site

Director Cabrera:

It now has been over three (3) months without any action since ADEQ's declaration on February 10, 2017 that "the State of Arizona will no longer accept delays at the West Van Buren Water Quality Assurance Revolving Site (WVB)."¹ Since RID's last communication to ADEQ on February 24, 2017, there have been a number of important developments relating to the ADEQ-approved RID groundwater remedial action. Most importantly and as warned in RID's earlier correspondence, the RID wellhead treatment systems at the most highly-contaminated RID wells that have been operating over the last five (5) years at RID's exclusive expense have been shut down, due to a lack of any continued interim funding from the State or any of the identified PRPs. Because the wells continue to pump to meet RID's water delivery obligations to its customers, uncontrolled toxic VOCs are being released into the local community.

Other significant developments include the oral argument held on February 28, 2017 before the federal judge presiding over RID's CERCLA Section 107 cost-recovery action on competing Motions for Summary Judgment on whether RID's ADEQ-approved groundwater remedial action was compliant with the federal National Contingency Plan (NCP) and would result in a CERCLA-quality cleanup. During oral argument, the federal judge expressed surprise "why the public entities here didn't step up more forcefully on all bases to do something about what is admittedly a very serious problem."² The judge emphasized his concern: "I don't think anybody disagrees, or if they do, I don't know on what basis they could possibly suggest that there aren't plumes of very deadly carcinogenic chemicals floating around underneath the City of Phoenix, Arizona."³

On March 15, 2017, the federal judge granted summary judgment in favor of RID, confirming RID's ADEQ-approved groundwater remedial action was compliant with the NCP and would result in a CERCLA-quality cleanup. In his Order, the judge also declared that the "ADEQ RI concluded that significant health

¹ ADEQ Letter to Interested Parties re Final Invitation for West Van Buren WQARF Site Regional Remedy (February 10, 2017).

² Reporter's Transcript of Proceedings (Motion Hearing) at page 38, lines 14-21, *Roosevelt Irrigation District v. Salt River Agric. Improvement and Power District*, No. CV-10-0920 (D. Ariz. Feb. 28, 2017).

³ *Id.*

risks existed from drinking water from groundwater containing VOC concentrations similar to those found in the ADEQ monitoring wells.⁴ The federal judge noted that the "record indicates that RID gave substantial thought and attention to compliance with site-specific Arizona law ... [and] that ADEQ gave significant oversight in the remediation process" and approved RID's remedial action plans.⁵ The federal judge also declared that "Defendants have not presented evidence of the existence of any other 'significantly more cost effective permanent remedial alternative.'"⁶ As a result, the federal Order concludes that "the Court finds that 'while certainly not in perfect compliance,' RID did as a matter of law substantially comply with the applicable requirements set forth in the NCP."⁷ Of course, RID's ADEQ-approved remedial action would not be "in perfect compliance" with the federal NCP because the remedy was investigated, developed, approved and implemented under Arizona's WQARF program, which, although patterned after CERCLA, is more cost-effective than the federal program. Furthermore, on May 12, 2017, the federal judge issued a 19-page comprehensive denial of the PRPs' Motion for Reconsideration, upholding the Court's finding that "RID was able to meet its burden of providing evidence that it substantially complied with the NCP ... [which is] designed to make the party seeking response costs choose a cost-effective course of action to protect public health and the environment."⁸

RID looks forward to fully implementing the ADEQ-approved RID groundwater remedial action. As stated in ADEQ's 2010 approval of RID's Early Response Action, "[w]ithout treatment, these contaminants will continue to degrade the quality of the aquifer within the Site"⁹ in violation of applicable aquifer water quality standards and, as recently noted by the federal judge, the ADEQ-approved RID groundwater remedial action is necessary to "do something about what is admittedly a very serious problem ... [in order to address] plumes of very deadly carcinogenic chemicals"¹⁰ in the groundwater. ADEQ also noted in its 2013 approval of RID's Modified Early Response Action that measures need to be taken to limit exposures of the low-income, minority local community to these toxic chemicals since the "long-term effects are uncertain and data show that 'significant volatilization and transfer of contaminants, from the water into the air, is occurring and is ongoing.'"¹¹ ADEQ's treatment policy and prohibition against the relocation/transfer of contaminants from one environmental media to another is consistent with EPA's policy "that it doesn't make good environmental sense to go through the work and expense of taking TCE out of the groundwater only to return it to the air"¹² and EPA's instruction that RID should "ensure that remedial action is taken in a timely manner to protect resources for future use."¹³

⁴ *Roosevelt Irrigation Dist. v. Salt River Project Agric. Improvement and Power Dist.*, No. 2:10-cv-00290, Dkt. 1396, "Order: (1) Denying Motion for Summary Judgment re: NCP Compliance; (2) Granting Cross-Motion for Summary Judgment re: NCP Compliance; and (3) Overruling Objections to Additional Fact Statements," 36 (D. Ariz. filed March 15, 2017).

⁵ *Id.* at 28.

⁶ *Id.* at 33.

⁷ *Id.* at 42.

⁸ *Roosevelt Irrigation Dist. v. Salt River Project Agric. Improvement and Power Dist.*, No. 2:10-cv-00290, Dkt. 1408, "Order Denying Motion for Reconsideration," 9 and 5 (D. Ariz. filed May 12, 2017).

⁹ ADEQ Approval of RID's Early Response Action (June 24, 2010).

¹⁰ Reporter's Transcript at page 38, lines 14-21.

¹¹ ADEQ Approval of RID's Modified Early Response Action (February 1, 2013).

¹² EPA letter re EPA Decision on Air Emission Controls at Groundwater Treatment Facilities Indian Bend Wash Superfund Site (North) (November 14, 2007).

¹³ EPA letter to RID re RID Request for a Time Critical Removal Action (April 4, 2017).

GK

Misael Cabrena, PE
May 16, 2017
Page 3

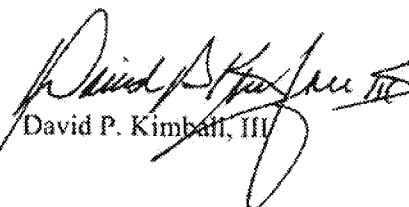
We would like to schedule a meeting within the next two weeks to discuss how RID can avoid any further delays in receiving all appropriate State authorizations or waivers to fully implement the ADEQ-approved RID groundwater remedial action for the WVBA WQARF Site that will protect public health and ensure compliance with the applicable Arizona aquifer water quality standards and provide a cost-effective water resource for Arizona's continued economic development. If all appropriate State authorizations or assurances cannot be timely provided to enable private interim financing arranged by RID for the restart and continued operation of the RID wellhead treatment systems and full implementation of the ADEQ-approved RID groundwater remedial action, we would like to discuss either how ADEQ might provide potential interim financing or how the State will fulfill its promise to "request that the United States Environmental Protection Agency evaluate the WVB Site for inclusion on the National Priorities List,"¹⁴ or alternatively, consult with EPA to adopt the ADEQ-approved RID groundwater remedial action pursuant to United States Code 42 § 9604 and/or adoption of the WVBA WQARF Site as an Operating Unit 4 of the existing Motorola 52nd Street federal Superfund Site.

We look forward to meeting with ADEQ at your earliest convenience.

Very truly yours,

GALLAGHER & KENNEDY, P.A.

By:


David P. Kimball, III

DPK:hlm

Kirk Adams, Arizona Governor's Chief of Staff
Henry Darwin, Arizona Governor's Chief of Operations
Mike Liburdi, Arizona Governor's General Counsel
Hunter Moore, Arizona Governor's Policy Advisor for Natural Resources
Tom Buschatzke, Director of Arizona Department of Water Resources
Anthony Young, Arizona Assistant to the Attorney General
Ken Slowinski, Chief Counsel for Arizona Department of Water Resources
Donovan Neese, Superintendent of RID

¹⁴ ADEQ Letter to Interested Parties re Final Invitation for West Van Buren WQARF Site Regional Remedy (February 10, 2017).

G|K



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 Hawthorne Street
San Francisco, California

April 3, 2017

Mr. Donovan Neese
Superintendent
Roosevelt Irrigation District
103 W. Baseline Road
Buckeye, AZ 85326

Re: RID Request for Time Critical Removal Action
West Van Buren Water Quality Assurance Revolving Fund Site

Dear Mr. Donovan:

Your attorney, David Kimball, reached out to us on March 23, 2017, requesting that the U.S. Environmental Protection Agency adopt and fund a time critical removal action at the West Van Buren Water Quality Assurance Revolving Fund site in Phoenix, Arizona, in order to provide interim funding for operation of certain wells within the RID network. As Mr. Kimball points out, the West Van Buren WQARF site abuts the Motorola 52nd Street Superfund site to the west and shares some of the same potentially responsible parties. However, the Motorola 52nd Street Superfund site is listed on the NPL and is a federal Superfund site; the West Van Buren site is being addressed by the Arizona Department of Environmental Quality through its WQARF program. EPA must evaluate its interest in assuming any role at the West Van Buren Site in that context.

Mr. Kimball's email requests that EPA select a removal action under CERCLA authorities to aid RID in financing its wellhead treatment at certain RID wells that presumably draw contaminated groundwater within the West Van Buren WQARF site. As an initial matter, consistent with the CERCLA statute, policy, and regulation, EPA generally does not apply its removal authority for area-wide groundwater sites. CERCLA 104(a) authorizes time-critical removal actions to be taken in very specific circumstances where there is "a threat to public health or welfare... or the environment." Groundwater contamination that has migrated to impact areas beyond the original source area, but which is not currently used as drinking water or otherwise creating significantly elevated levels of exposure, is better addressed through remedial programs.

EPA's removal authority is limited to situations in which a "release or threat of release into the environment" of a hazardous substance, pollutant or contaminant presents "a threat to public health or welfare ... or the environment (CERCLA, 42 USC 104(a)(1)), and the National Contingency Plan, at 40 CFR section 300.415(b)(2), sets forth the specific factors to consider when selecting a removal action. These factors include "actual or potential exposure to human populations..." and "actual or potential contamination of drinking water supplies..." Furthermore, except in unusual circumstances, removal actions are limited to \$2 million over a 12-month duration. These

considerations inform the determination of whether a removal action is appropriate in a given situation as well as whether a remedial action would be more suitable.

It is EPA's understanding that the water being extracted from the wells that you are seeking assistance for is being used for agricultural purposes, not for drinking water. There does not appear to be any imminent exposure to the contamination in the aquifer. Although the aquifer may at some point be used for drinking water, that is not the condition right now.

In addition to asking for EPA to institute a removal action for the four contaminated wells, Mr. Kimball's email requests funding from EPA's removal program in order to do this. In the first instance, EPA does not provide grants for removal activities. Additionally, conditions for taking removal actions are generally limited by the CERCLA statute and corresponding regulations; those conditions are even tighter where Superfund monies are being requested. Specifically, CERCLA and the NCP require that Fund-financed removal actions incur less than \$2 million in costs and last no longer than a year (CERCLA Section 104(c)(1); 40 CFR 300.415(b)(5)). It is unclear what the total cost of the action is that you are looking to conduct but the proposal did not provide certainty regarding the duration or total potential costs. Although there are exemptions to these limitations, for the same reasons as are noted above, RID's situation would not qualify for an "emergency exemption." The "emergency exemption" is reserved for situations where response is required to prevent, limit, or mitigate an "emergency," where there is "immediate risk to public health or welfare or the environment," and there is no other timely assistance available.

Generally, absent time sensitivity or more critical exposure scenarios, EPA responds to groundwater contamination through its remedial authority because such sites are more complex and likely require more costly, complicated, and lengthy responses. This approach is consistent with ADEQ's treatment of the West Van Buren WQARF site as part of its remedial program. Were EPA to become involved with the West Van Buren site, it would require either that the state refer the site to EPA for potential listing on the NPL, which notably includes a lengthy evaluation process, or that the state refer any specific removal action based on a substantial threat. Neither of these approaches appear warranted at this juncture. Accordingly, we encourage you to continue working with ADEQ and the responsible parties to ensure that remedial action is taken in a timely manner to protect resources for future use.

For any technical follow-up questions, please contact Rachel Loftin, the Remedial Project Manager for the Motorola 52nd Street site, at Loftin.Rachel@epa.gov or (415) 972-3253. For any legal questions, please have Mr. Kimball contact Bethany Dreyfus from our Office of Regional Counsel at Dreyfus.Bethany@epa.gov or (415) 972-3886. We appreciate any work that RID is doing to address contamination at the West Van Buren WQARF site and will continue to keep abreast of the progress made there.

Sincerely,

Enrique Manzanilla, Director
Superfund Division

Cc: David P. Kimball III, Gallagher & Kennedy
Misael Cabrera, Director ADEQ

Louis, Sonja G.

From: Kimball III, David P.
Sent: Friday, March 24, 2017 10:17 AM
To: Strauss, Alexis
Cc: Manzanilla, Enrique
Subject: RE: "Time Critical Removal Action Request"

Alexis:

Thank you so much for your prompt response. I look forward to speaking with you after your internal discussion. Sorry for the last minute request for help but I expected the state to be more responsive. The problem has been with the Department of Water Resources not providing the routine state groundwater withdrawal permit to fully implement the groundwater remedial action approved by ADEQ due to political influence of PRPs that opposed ADEQ's approval of the groundwater remedial action. The state groundwater permit would be waived under federal law for a time critical removal action. Time is short. We will be advising ADEQ today per the approved O&M Plan that sampling data indicate VOC break through within the next 7 to 10 days. Anxious to discuss possible options with your team at your earliest convenience.

Dave

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: "Strauss, Alexis" <Strauss.Alexis@epa.gov>
Date: 03/24/2017 8:58 AM (GMT-07:00)
To: "Kimball III, David P." <DPK@gknet.com>
Cc: "Manzanilla, Enrique" <Manzanilla.Enrique@epa.gov>
Subject: RE: "Time Critical Removal Action Request"

Dear Dave,

I hope this finds you well. After we have time to confer internally and with ADEQ, we'll respond to you, likely next week.

Kind regards,

Alexis

Alexis Strauss
Acting Regional Administrator
E.P.A. Region 9
75 Hawthorne Street
San Francisco, CA 94105
415-972-3572

From: Kimball III, David P. [mailto:DPK@gknet.com]
Sent: Thursday, March 23, 2017 5:40 PM
To: Strauss, Alexis <Strauss.Alexis@epa.gov>; Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>; Dan Meer (meer.dan@epa.gov) <meer.dan@epa.gov>
Subject: "Time Critical Removal Action Request"

Ms. Strauss and Messrs. Manzanilla and Meer:

We represent the Roosevelt Irrigation District (RID) which over the last six years has voluntarily initiated certain remedial actions, after approval from the Arizona Department of Environment Quality, to address the widespread groundwater contamination and public exposure risks at the West Van Buren Area (WVBA) Water Quality Assurance Revolving Fund (WQARF) Site in Phoenix, Arizona. The WVBA WQARF Site is located adjacent and downgradient of the Motorola 52nd Street Federal Superfund Site which also contributes to the groundwater contamination in the WVBA WQARF Site.

Like the Motorola 52nd Street Federal Superfund Site, groundwater in the WVBA WQARF Site has been contaminated by multiple hazardous volatile organic compounds (VOCs), including the known human carcinogen TCE. These hazardous VOCs have impacted RID's water supply wells within the WVBA WQARF Site in concentrations exceeding applicable and enforceable numeric and narrative aquifer water quality standards and federal drinking water maximum contaminant levels.

RID has voluntarily developed, evaluated and implemented (within its limited financial capabilities) remedial actions that have been approved by ADEQ to address the groundwater contamination and mitigate exposure risks to public health caused by releases of hazardous substances from third-party industrial and commercial facilities. ADEQ has determined that RID's ADEQ-approved remedial actions are "reasonable, necessary and cost-effective" to address "a release or threat of release that presents an immediate and substantial endangerment to public health or the environment." Recently, a federal judge determined that RID's remedial actions with ADEQ's approvals and oversight substantially comply with the National Contingency Plan as a matter of law.

RID needs immediate funding on an interim basis to continue operating the existing four wellhead treatment systems on the four most highly-contaminated RID wells in the WVBA WQARF Site. RID has sought other funding mechanisms over the last six months with the State of Arizona with no response. As a result, RID is seeking EPA approval and interim funding for a Time-Critical Removal Action (TCRA) as discussed in the attached Action Memorandum. This TCRA would be limited to the four existing wellhead treatment systems as approved by ADEQ and deemed NCP compliant by the federal judge. Without this emergency interim funding, the existing wellhead treatment systems will be required to shut down while the wells continue to operate, thereby increasing public exposure to hazardous substances within the low-income, minority local community.

In addition to the attached Action Memorandum, we have provided for your convenience the materials referenced in the Action Memorandum. These materials include figures depicting the WVBA WQARF Site, ADEQ approvals of RID's remedial actions, recent RID communications with the State of Arizona on possible interim funding options, the recent judicial decision on RID's NCP compliance and a Q&A Report that discusses the public health, groundwater contamination and environmental justice issues at the WVBA WQARF Site.

The existing wellhead treatment systems were just turned back on when RID's wells were put back into operation to meet the increased water demands of its customers. We just completed the initial water quality sampling of the treatment systems. Based on our five years of experience with these treatment systems, immediate interim funding will be necessary to avoid shutting off the wellhead treatment systems within the next two weeks.

Your prompt consideration and response would be greatly appreciated to address these serious issues at the WVBA WQARF Site.

Sincerely,

Dave

Gallagher & Kennedy

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